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| 10/761,104 | 01/20/2004 | David R. Mains | 141681.00003-P1264US00 | 3125 |
| 25207 | 7590 | 12/22/2004 | EXAMINER | |
| POWELL GOLDSTEIN LLP ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488 | | | COLETTA, LORI L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3612 | |

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,104

Applicant(s)

MAINS, DAVID R.

Examiner

Lori L. Coletta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,13,14 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,5-12 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04262004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **lip contains a plurality of holes spaced apart around the lip** (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. **The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures.** If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because the legal phraseology often used in patent claims, such as "**means**" (line 7) should be avoided. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

“side walls 12” (page 5, line 18) needs to be changed to --side walls 16--.

“bridge support member 26” (page 6, line 13) needs to be changed to --bridge support member 28--.

“panels 44, 46” (page 8, lines 18 and 19) needs to be changed to --panels 36, 38--.

Appropriate correction is required.

Claim Objections

4. Claims 4-10 are objected to because of the following informalities:

Claims 4-10 recites the limitation "said support means." There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 13, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Conners et al. 6,062,146.

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Regarding claim 1, Connors et al. '146 discloses a shelf assembly (100) for mounting in a vehicle having a generally flat rearward extending bed defined by a floor and pair of upwardly extending side walls, said shelf assembly comprising a frame (120) comprising a plurality of U-shaped members ((130, 132 and 143) (130, 134 and 172) (132, 200 and 172) and (134, 200 and 134)), having a base and two spaced apart arms extending perpendicular to said base, a plurality of telescoping members (214) associated with said arms, means (162 or 164) for removably locking each arm of each said U-shaped member, whereby to adjustably fix said spaced apart bases; and a first and second generally planar panel members (224 and 226) positioned on said frame for receiving items to be transported thereon, said panel members associated with said frame to allow movement between said panel members.

Regarding claim 2, Connors et al. '146 discloses the shelf (100), further comprising a raised lip (166 and 168) extending at least a portion around the periphery of said frame (120) in Figure 3.

Regarding claim 4, Connors et al. '146 discloses the shelf (100), wherein said support means comprises at least one downwardly depending leg (142, 152, 182 and 192) associated with said shelf assembly in Figure 3.

Regarding claim 13, Connors et al. '146 discloses the shelf (100), wherein said locking means (162) comprises a plurality of thumbscrews, which are removably received within mating apertures in said frame (120).

Regarding claim 14, Connors et al. '146 discloses the shelf (100), further comprising a nut attached to said frame (120) axially aligned with said aperture to provide additional strength for said thumbscrew.

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Regarding claim 18, Connors et al. '146 discloses a shelf assembly (100) for mounting in a vehicle having a generally flat rearward extending bed defined by a floor and pair of upwardly extending side walls, said shelf assembly comprising a frame (120) comprising a plurality of U-shaped members ((130, 132 and 143) (130, 134 and 172) (132, 200 and 172) and (134, 200 and 134)), having a base and two spaced apart arms extending perpendicular to said base, a plurality of telescoping members (214) associated with said arms, means (162 or 164) for removably locking each arm of each said U-shaped member, whereby to adjustably fix said spaced apart bases, a raised lip (166 and 168) extending at least a portion around the periphery of said frame; and a first and second generally planar panel members (224 and 226) positioned on said frame for receiving items to be transported thereon, said panel members associated with said frame to allow movement between said panel members; at least one leg (142, 152, 182 and 192) depending downward from said shelf assembly.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connors et al. 6,062,146 in view of Bharj et al. 6,406,083.

Regarding claim 16, Connors et al. '146 discloses the shelf (100) but does not show a plurality of means for connecting said shelf assembly to a vehicle to prevent substantial undesired movement when said shelf assembly is mounted in said vehicle.

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Bharj et al. '083 teaches a plurality of means (6 and 7) for connecting a shelf assembly to a vehicle to prevent substantial undesired movement when said shelf assembly is mounted in said vehicle in Figure 2.

Regarding claim 16, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the shelf assembly of Connors et al. '146 with a plurality of means for connecting the shelf assembly to a vehicle, as taught by Bharj et al. '083, in order to prevent substantial undesired movement when the shelf assembly is mounted in said vehicle.

Allowable Subject Matter

9. Claims 3, 5-12 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other shelf assemblies similar to that of the current invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614. The examiner can normally be reached on Monday-Friday 6:00am-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lori L. Coletta

Lori L. Coletta
Primary Examiner
Art Unit 3612

llc
December 15, 2004